

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Benjamin Shelton	Team: Squad #6	CCRB Case #: 201809508	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 11/05/2018 10:15 PM	Location of Incident: [REDACTED]	Precinct: 19	18 Mo. SOL 5/5/2020	EO SOL 12/20/2020	
Date/Time CV Reported Wed, 11/14/2018 4:45 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 11/14/2018 4:45 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Omar Ibrahim	22199	963075	019 PCT
2. POM Osmairy Castillo	08080	963440	019 PCT
3. POM James Willer	18114	927672	019 PCT
4. POM Patrick Conley	00871	946628	019 PCT
5. POM Harley Greco	10322	965154	019 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Joshep Palaguachi	04815	950999	019 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Omar Ibrahim	Abuse: Police Officer Omar Ibrahim drew his gun.	[REDACTED]
B.POM Omar Ibrahim	Abuse: Police Officer Omar Ibrahim forcibly removed § 87(2)(b) to the hospital.	[REDACTED]
C.POM Omar Ibrahim	Force: Police Officer Omar Ibrahim restricted § 87(2)(b)'s breathing.	[REDACTED]
D.POM Osmairy Castillo	Force: Police Officer Osmairy Castillo restricted § 87(2)(b)'s breathing.	[REDACTED]
E.POM Patrick Conley	Force: Police Officer Patrick Conley restricted § 87(2)(b)'s breathing.	[REDACTED]
F.POM Harley Greco	Force: Police Officer Harley Greco restricted § 87(2)(b)'s breathing.	[REDACTED]
G.POM James Willer	Abuse: Police Officer James Willer threatened to arrest § 87(2)(b)	[REDACTED]

Case Summary

On November 14, 2018, § 87(2)(b) filed the following complaint with the CCRB via the agency's website.

On November 5, 2018, at approximately 10:12 p.m., § 87(2)(b) was driving when he was stopped on Lexington Avenue between East 86th Street and East 85th Street by PO Omar Ibrahim and PO Osmairy Castillo from the 19th Precinct. § 87(2)(b) exited his vehicle as the two officers approached him, and PO Ibrahim drew his gun (**Allegation A: Abuse of authority, § 87(2)(g)**). While speaking to PO Ibrahim and PO Castillo, § 87(2)(b) told officers that they would ruin his life and that he would need to kill himself. PO Ibrahim requested additional units and officers including PO Patrick Conley, PO Harley Greco, PO James Willer, and Sgt. Joshep Palaguachi from the 19th Precinct responded to the location. When § 87(2)(b) repeated that he was going to kill himself, PO Ibrahim requested an ambulance (**Allegation B: Abuse of authority, § 87(2)(g)**). PO Ibrahim, PO Castillo, PO Conley, and PO Greco used physical force to place § 87(2)(b) into handcuffs. § 87(2)(b) complained that he could not breathe while being handcuffed (**Allegations C-F: Force, § 87(2)(g)**). PO Willer told § 87(2)(b) that he was going to be "locked up" (**Allegation G, Abuse of authority, § 87(2)(g)**). EMTs arrived on scene and determined that § 87(2)(b) needed to be taken to a hospital and he was subsequently transported to § 87(2)(b) in Manhattan.

A Vehicle and Traffic Law (VTL) summons was issued to § 87(2)(b) during the incident for failure to obey a traffic device (Board Review 01).

Body-worn camera footage of the incident was provided by IAB (Board Review 02-04). Pertinent portions of that footage are noted and used in the analysis below.

Findings and Recommendations

Allegation A – Abuse of authority: Police Officer Omar Ibrahim drew his gun.

Video footage obtained for this incident, captured by PO Castillo's body-worn camera and provided by IAB, shows PO Castillo and PO Ibrahim exit their vehicle after pulling over § 87(2)(b)'s vehicle (Board Review 05). There is no audio for the first 30 seconds of footage. When PO Castillo exits, § 87(2)(b) is already out of his vehicle and he begins walking toward the officers and briefly places his hands in his pockets. PO Castillo puts his arm out with his palm toward § 87(2)(b). PO Ibrahim is then seen holding his firearm in his left hand, guarding the top of the firearm with his right hand. PO Ibrahim aims the muzzle toward the ground. § 87(2)(b) takes a few more steps toward the officers before he returns to his vehicle. Officers then approach § 87(2)(b)'s vehicle, with PO Ibrahim's left hand and firearm going out of frame. PO Castillo and PO Ibrahim advise § 87(2)(b) to take his hands out of his pockets and not to leave his vehicle when he is stopped by police. When PO Ibrahim's left hand is next seen, he is no longer holding his firearm.

§ 87(2)(b) testified that he did not know he was being pulled over by police officers, but stopped on Lexington Avenue so that he could park (Board Review 06-07). § 87(2)(b) exited his vehicle to inspect how much space he had to park. As soon as he exited, PO Ibrahim

ordered him to return to his vehicle and take his hands out of his pockets. When § 87(2)(b) turned to look at PO Ibrahim, the officer had his hand on his holstered firearm. § 87(2)(b) never alleged that PO Ibrahim or any other officer drew their weapon.

PO Ibrahim testified that when he and PO Castillo were exiting their vehicle after stopping § 87(2)(b)'s vehicle, § 87(2)(b) exited his vehicle (Board Review 08). § 87(2)(b) then ran at officers, yelling at them in an angry and hysterical manner while keeping his hands in his pockets. PO Castillo and PO Ibrahim ordered § 87(2)(b) to return to his vehicle multiple times, but § 87(2)(b) did not immediately comply. Due to § 87(2)(b)'s agitated demeanor, fast approach, and concealed hands, § 87(2)(b) posed a potentially imminent danger to officers. PO Ibrahim noted, based on his training and experience, an individual with their hands in their pockets could be concealing a knife or other weapon. Due to this potential threat, PO Ibrahim drew his firearm and aimed it toward the ground. § 87(2)(b) returned to his vehicle. Once PO Ibrahim was at the side of § 87(2)(b)'s vehicle and saw that § 87(2)(b) had removed his hands from his pockets, PO Ibrahim re-holstered his firearm. PO Ibrahim estimated he drew his firearm for less than a minute.

Patrol Guide Procedure 221-01 concerning force guidelines notes that officers may display or draw a firearm if there is an articulable belief that the potential for serious physical injury is present (Board Review 09).

§ 87(2)(g)

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§ 87(2)(g)

Allegation B – Abuse of authority: Police Officer Omar Ibrahim forcibly removed § 87(2)(b) to the hospital.

It is undisputed that § 87(2)(b) told officers multiple times that because of the incident, he would need to kill himself (Board Review 10-14). Several officers, including PO Conley, PO Greco, Sgt. Palaguachi, and PO Willer arrived on scene as PO Ibrahim had requested additional units to his and PO Castillo's location. PO Ibrahim, due to § 87(2)(b)'s continuous suicidal statements as well as § 87(2)(b)'s overall agitated demeanor, called over the radio to request an ambulance. While Sgt. Palaguachi was on scene when PO Ibrahim made this call, he was not consulted beforehand. When § 87(2)(b) expressed that he did not want to go the hospital, PO Ibrahim, PO Castillo, PO Conley, and PO Greco all assisted in placing § 87(2)(b) in handcuffs. Officers escorted him to an ambulance once it arrived. The EMS unit then decided to take § 87(2)(b) to a hospital for further evaluation.

Video footage obtained for this incident, captured by PO Castillo's body-worn camera and provided by IAB, shows PO Ibrahim ordering § 87(2)(b) to hand over his registration (Board Review 15). PO Ibrahim warns § 87(2)(b) that if he keeps, "acting like this, I'm going to send you to the hospital." § 87(2)(b) responds, "I'm going to have to commit suicide." Another officer tells § 87(2)(b) that he is going to the hospital. PO Ibrahim then calls over the

Patrol Guide Procedure 221-13 concerning mentally ill or emotionally disturbed person (EDP) defines an EDP as a person who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which an officer reasonably believes is likely to result in serious injury to himself or others (Board Review 16). Physical force will be used only to the extent necessary to restrain the subject until delivered to a hospital. Restraining equipment such as handcuffs may be used if the patient resists.

[illegible]

Allegation D – Force: Police Officer Osmairy Castillo restricted § 87(2)(b) s breathing.

Allegation F – Force: Police Officer Harley Greco restricted § 87(2)(b) s breathing.

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§ 87(2)(b) did not raise these allegations during any of his statements. However, he stated that the front of his body made contact with his vehicle while officers placed his hands behind his back.

PO Ibrahim, PO Castillo, PO Conley, and PO Greco all stated that they themselves, or any other officer, did not take any actions that would have restricted § 87(2)(b)'s breathing. Only PO Greco recalled the front of § 87(2)(b)'s torso being placed against a vehicle during the handcuffing, but clarified that it would not have been with enough force to restrict § 87(2)(b)'s breathing. Upon viewing the above-referenced footage, PO Greco amended his testimony and stated that the front of § 87(2)(b)'s torso was not placed against any vehicle. Sgt. Palaguachi did not recall if the front of § 87(2)(b)'s torso was placed against a vehicle while he was handcuffed, but stated that no officer restricted § 87(2)(b)'s breathing. PO Willer did not recall any actions by other officers that would have restricted § 87(2)(b)'s breathing.

§ 87(2)(g)

§ 87(2)(g)

Allegation G – Abuse of authority: Police Officer James Willer threatened to arrest § 87(2)(b)

Video footage obtained for this incident, captured by PO Castillo's body-worn camera and provided by IAB, shows § 87(2)(b) in handcuffs, telling PO Ibrahim that passers-by told officers they should not have acted the way they did (Board Review 17). PO Ibrahim explains that the passers-by are of no concern to officers. They then have a small back-and-forth regarding the appropriateness of the officers' actions, before § 87(2)(b) asks Sgt. Palaguachi to get PO Ibrahim away from him. PO Ibrahim then leaves the immediate vicinity of § 87(2)(b).

§ 87(2)(b) stated that, after he was placed in handcuffs, PO Willer told § 87(2)(b) that he was "going to be locked up." § 87(2)(b) asked the other officers on scene if PO Willer could move away from him. PO Willer subsequently moved.

PO Willer denied ever threatening arrest upon § 87(2)(b) in any way, including telling him that he was going to be locked up. He did not recall interacting at all with § 87(2)(b) during the incident. No officer heard any other officer threaten to arrest § 87(2)(b) in any way, including telling him that he was going to be locked up.

§ 87(2)(b) stated that he only asked PO Willer to move away from him after the threat of arrest. The above-referenced footage shows § 87(2)(b) unhappy with PO Ibrahim, request that he move away. At no other point in the available footage does § 87(2)(b) request that any other officer to move away from him nor is an officer depicted threatening to arrest § 87(2)(b) including telling him that he was going to be locked up. At no point in the available footage is PO Willer depicted having any interaction with § 87(2)(b). Officers' statements were consistent with the video footage.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- PO Ibrahim has been a member of service for two years and this is the first CCRB complaint in which he has been named a subject (see officer history).
- PO Castillo has been a member of service for one year and this is the first CCRB complaint in which he has been named a subject (see officer history).
- PO Conley has been a member of service for 10 years and has been a subject of six other allegations in four other CCRB complaints with no substantiations (see officer history).
- § 87(2)(b)
- PO Greco has been a member of service for one year and this is the first CCRB complaint in which he has been named a subject (see officer history).
- PO Willer has been a member of service for 18 years and has been a subject of 21 other allegations in 13 other CCRB complaints with no substantiations (see officer history).

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- A FOIL request was submitted with the New York City Office of the Comptroller for a Notice of Claim on March 13, 2019, and will be added to the case file upon receipt.
- According to the Office of Court Administration, § 87(2)(b) has no criminal convictions within New York City as of March 13, 2019 (Board Review 19).

Squad No.: 6

Investigator:	_____	Inv. Benjamin Shelton	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	IM Jessica Peña	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date